

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE PRIMARY SECTOR BUSINESS WORKFORCE
5 TRAINING ACT TO ASSIST COMMUNITY ECONOMIC DEVELOPMENT BY PROVIDING TRAINING FOR
6 EXISTING WORKERS AND INCENTIVES FOR BUSINESSES TO LOCATE AND EXPAND WITHIN THE
7 STATE THROUGH GOVERNMENT-ASSISTED NEW JOBS TRAINING; PROVIDING DEFINITIONS AND
8 CRITERIA FOR GRANT ELIGIBILITY; PROVIDING TEMPORARY FUNDING FOR WORKFORCE TRAINING
9 GRANTS THROUGH BOARD OF INVESTMENT LOANS, WHICH WILL BE REPAID THROUGH A NEW JOBS
10 CREDIT THAT IS GENERATED FROM THE CREATION OF PERMANENT, FULL-TIME JOBS; AND
11 PROVIDING AN APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Primary Sector
16 Business Workforce Training Act".

17
18 NEW SECTION. **Section 2. Purpose.** (1) The Primary Sector Business Workforce Training Act is
19 created to meet the training needs of existing industries in the state and to provide incentives to businesses to
20 locate and expand within the state through government-assisted new jobs training.

21 (2) It is the intent of the legislature to provide training funds for businesses to train and educate
22 employees, which will result in the production of high-wage and high-skilled jobs that will increase the earning
23 potential and employment opportunities for Montana employees and enhance the state's economy.

24
25 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 7], the following definitions
26 apply:

- 27 (1) "Eligible training provider" means:
28 (a) a unit of the university system, as defined in 20-25-201;
29 (b) a community college district, as defined in 20-15-101;
30 (c) an accredited, tribally controlled community college located in the state of Montana;



- 1 (d) an entity approved to provide workforce training that is included on the eligible training provider list;
2 or
- 3 (e) an approved training program provided by the primary sector business employer.
- 4 (2) "Eligible training provider list" means the list maintained by the department of those eligible training
5 providers who may be used to provide workforce training under a grant authorized in [section 5].
- 6 (3) "Employee" means the individual employed in a new job.
- 7 (4) "Employer" means the individual, corporation, partnership, or association providing new jobs and
8 entering into a grant contract.
- 9 (5) "Full-time job" means a predominantly year-round position requiring an average of 35 hours of work
10 each week.
- 11 (6) (a) "New job" means a newly created full-time job in an eligible business.
- 12 (b) The term does not include jobs for recalled employees returning to positions held previously, for
13 replacement employees, or for employees newly hired as a result of a labor dispute, part-time or seasonal jobs,
14 or other jobs that previously existed within the employment of the employer in the state.
- 15 (7) "New jobs credit" means the credit provided in [section 6].
- 16 (8) "Office of economic development" means the office established in 2-15-218.
- 17 (9) "Primary sector business" means an employer engaged:
- 18 (a) in locating in Montana who previously had no presence in the state;
- 19 (b) in expanding operations within Montana, which through the employment of knowledge or labor, adds
20 value to a product, process, or export service that results in the creation of new wealth and for which 70% of the
21 sales of the company occur outside the state of Montana.
- 22 (10) "Primary sector business workforce training program" or "program" means a program for which a
23 grant is provided to employers for the purpose of working with eligible training providers to provide employees
24 with education and training required for jobs in new or expanding primary sector businesses in the state.
- 25 (11) (a) "Program costs" means all necessary and incidental costs of providing program services.
- 26 (b) The term does not include the cost of purchase of equipment to be owned or utilized by the eligible
27 training provider.
- 28 (12) "Program services" means training and education specifically directed to the new jobs, including:
- 29 (a) all direct training costs, such as:
- 30 (i) program promotion;

- 1 (ii) instructor wages, per diem, and travel;
- 2 (iii) curriculum development and training materials;
- 3 (iv) lease of training equipment and training space;
- 4 (v) miscellaneous direct training costs;
- 5 (vi) administrative costs; and
- 6 (vii) assessment and testing;
- 7 (b) in-house or on-the-job training; and
- 8 (c) subcontracted services with eligible training providers.

9
10 **NEW SECTION. Section 4. Grant review committee -- appointment -- powers and duties --**

11 **rulemaking authority.** (1) There is a seven-member grant review committee appointed as follows:

- 12 (a) two representatives from the private sector representing economic development appointed by the
- 13 governor;
- 14 (b) two representatives from the business community, one appointed by the president of the senate and
- 15 one appointed by the speaker of the house;
- 16 (c) one representative from the governor's office appointed by the governor;
- 17 (d) one representative from the department of revenue appointed by the governor; and
- 18 (e) one representative from the department of labor and industry appointed by the governor.

19 (2) The committee shall award a primary sector business workforce training grant to a primary sector

20 business qualified under [section 5] after a determination that the primary sector business:

- 21 (a) has prospects for achieving commercial success and for creating new jobs in the state;
- 22 (b) has prospects for collaboration between the public and private sectors of the state's economy;
- 23 (c) has potential for commercial success related to the specific product, process, or business
- 24 development methodology proposed;
- 25 (d) can provide matching funds; and
- 26 (e) can be reasonably expected to provide an economic return within a reasonable period of time.

27 (3) A committee member may not personally apply for or receive a primary sector business workforce

28 training grant. If an organization with which a member is affiliated applies for a grant, the member shall disclose

29 the nature of the affiliation and, if the committee member is a board member or officer of the organization, may

30 not participate in the decision of the committee regarding the grant application.

1 (4) The committee shall adopt rules to:
2 (a) provide for grant application procedures;
3 (b) develop procedures for awarding grants pursuant to the criteria provided in [section 5]; and
4 (c) develop independent review and audit procedures to ensure that grants made are used for the
5 purposes identified in the grant contracts.

6 (5) All decisions of the committee are final and are not subject to the contested case provisions of Title
7 2, chapter 4.

8 (6) The committee is allocated to the office of economic development for administrative purposes only
9 as provided in 2-15-121.

10

11 **NEW SECTION. Section 5. Primary sector business workforce training grants -- eligibility.** (1)
12 The grant review committee provided for in [section 4] may award workforce training grants to employers that
13 provide education or skills-based training, through eligible training providers from the eligible training provider
14 list, for employees in new jobs.

15 (2) To be eligible for a grant, an applicant shall demonstrate that at least 70% of the applicant's revenue
16 will be from outside the state of Montana, and the applicant must meet at least one of the following criteria:

- 17 (a) be a value-adding business as defined by the Montana board of investments;
18 (b) demonstrate a significant positive economic impact to the region and state beyond the job creation
19 involved;
20 (c) provide a service or function that is essential to the locality or the state; or
21 (d) be a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the
22 community or region.

23 (3) An applicant shall also provide a match of at least \$1 for every \$3 requested. The match:

- 24 (a) must be from new, unexpended funds available at the time of application;
25 (b) may include new loans and investments and expenditures for direct project-related costs such as
26 new equipment and buildings. The committee may consider recent purchases of fixed assets directly related to
27 the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training
28 activities that have been made within 90 days after submission of the application may be considered eligible by
29 the office of economic development.

30 (4) A grant provided under this section may not exceed an amount greater than the present value of

1 expected incremental tax revenue, as described in [section 6], that is expected over the 10-year period
2 immediately following the grant award. In calculating the maximum grant amount, the committee shall consider
3 the Montana board of investments loan rate, under the Municipal Finance Consolidation Act of 1983, in effect
4 at the time of the grant and the state personal income tax rates in effect or those rates scheduled to take effect.

5 (5) A primary sector business workforce training program must involve at least 10 new jobs unless
6 unique circumstances are documented that indicate a significant, positive, secondary impact to the local
7 economy. Funding ceilings will be determined by the availability of funding, the cost for each job, and the quality
8 of the primary sector business proposal.

9 (6) The grant application, at a minimum, must contain:

10 (a) a business plan containing information that is sufficient for the committee to obtain an adequate
11 understanding of the business to be assisted, including the products or services offered, estimated market
12 potential, management experience of principals, current financial position, and details of the proposed venture.
13 In lieu of a business plan, the committee may consider a copy of the current loan application to entities such as
14 the Montana board of investments, the federal business and industry guarantee program, or the small business
15 administration.

16 (b) financial statements and projections for the 2 most recent years of operation and projections for each
17 of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and
18 cash flow statements. A business operating for less than 2 years shall provide all available financial statements.

19 (c) a hiring and training plan, which must include:

20 (i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are
21 full-time, part-time, skilled, semiskilled, or unskilled positions;

22 (ii) a timetable for creating the positions and the total number of employees to be hired;

23 (iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

24 (iv) procedures for outreach, recruitment, screening, training, and placement of employees;

25 (v) a description of the training curriculum and resources;

26 (vi) written commitments from any agency or organization participating in the implementation of the hiring
27 plan; and

28 (vii) a description of the type and method of training to be provided to employees, the starting wage and
29 wage to be paid after training for each position, the job benefits to be paid or provided, and any payment to
30 eligible training providers.

1 (7) If the committee determines that an applicant meets the criteria established in this section and has
2 complied with the applicable procedures and review processes established by the committee, the committee
3 may award a primary sector business workforce development grant to the employer and authorize the
4 disbursement of funds to the primary sector business.

5 (8) (a) A contract with a grant recipient must contain provisions:

6 (i) certifying that the full amount of the grant will be reimbursed in the event that the primary sector
7 business ceases operation within the 12-month grant contract period;

8 (ii) requiring the employer receiving the grant to repay any shortfall in the personal income tax revenues
9 to the state, as calculated in [section 6], that are the result of the company failing to meet the number of jobs or
10 pay level of those jobs described in the final grant application. A shortfall in any fiscal year must be assessed
11 against and paid by the company in the next fiscal year.

12 (iii) providing the office of economic development with annual reports and a final closeout report that
13 documents the higher wages paid to an employee upon completion of the training.

14 (b) The contract must be signed by the person in the primary sector business who is assigned the duties
15 and responsibilities for training and the overall success of the program and by the primary sector business's chief
16 executive.

17
18 **NEW SECTION. Section 6. New jobs credit -- loan repayment.** A grant made under [section 5] for
19 program costs must be repaid by a new jobs credit, which must be calculated and paid as follows:

20 (1) The new jobs credit must be based on the gross wages paid for new jobs created.

21 (2) Each employer receiving a grant under the program shall report annually the gross wages paid for
22 each new job for which a grant under the program was received.

23 (3) The employer shall provide any additional information required by the department of revenue to
24 calculate the new jobs credit.

25 (4) The department of revenue shall calculate the income tax receipts to the state based on the gross
26 wages paid by the employer. The department of revenue may use a state average effective income tax rate, by
27 income bracket, to calculate income tax receipts to the state from the program.

28 (5) Except as provided in subsection (6), the department of revenue shall transfer the equivalent
29 payment amount to the office of economic development for repayment of principal, interest, and administrative
30 costs on loans issued under [section 5]. All funds transferred to the office of economic development must be

1 used to repay loan principal and interest. Transfers for a particular loan must cease once the principal on that
2 loan has been repaid. Any excess funds remaining must revert to the state general fund.

3 (6) The department of revenue shall subtract 5% from the total of each loan and transfer that amount
4 to the committee to be used in assisting the department of labor and industry in working with the university
5 system to analyze data and report on the available labor supply in Montana's rural and urban labor markets.

6 (7) The department of revenue may adopt rules necessary to implement this section, including but not
7 limited to:

8 (a) the development of application procedures and forms; and

9 (b) requirements for submission of information necessary to process the new jobs credit.

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11 NEW SECTION. Section 7. Board of investment loans. The office of economic development may
12 obtain a maximum of \$10 million in outstanding loans from the board of investments issued pursuant to the
13 Municipal Finance Consolidation Act of 1983 authorized in Title 17, chapter 5, part 16, to provide financial
14 assistance for primary sector business workforce training grants authorized by the grant committee pursuant to
15 criteria outlined in [section 5].

16

17 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 7] are intended to be
18 codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 1 through 7].

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20 NEW SECTION. Section 9. Applicability. [This act] applies to grants issued on or after October 1,
21 2003.

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- END -